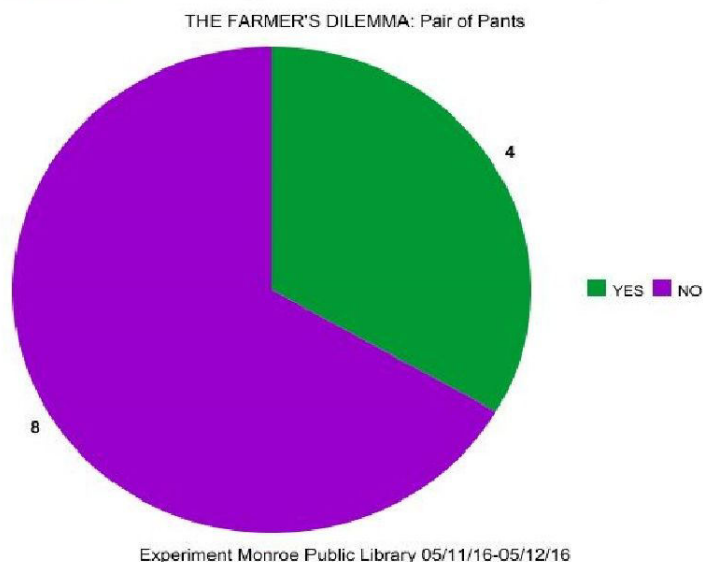


# EXHIBIT D

## AFFIDAVIT OF RICHARD KATZ

Personally appeared before the undersigned notary public, duly authorized to administer oaths, Richard Katz.

- (1) My name is Richard Katz. I hold a medical degree and have research experience completing a post doctoral research fellowship at Weill Cornell and The Nathan S. Kline Institute for Psychiatric Research. I have publications in peer reviewed medical journals. I designed a simple field trial experiment to determine a material fact as described herein.
- (2) On two consecutive days from May 11 to May 12, 2016 between the hours of 11:45 AM and 12:15 PM I visited the Eastern Monroe Public Library located at 1002 North Ninth Street, Stroudsburg, PA 18360. Over the course of the two days I approached 20 arbitrary people (12 the first day and 8 the next day). This group was mixed in age, ethnicity and gender. **I identified myself as a researcher and asked if they would be willing to participate in a short two minute experiment. They were asked to read a passage and after finishing the passage to check the appropriate box designated either YES or NO describing how they would react to a scenario.** Out of the 20 individuals approached only 12 participants agreed to participate, four men and eight women ranging in ages from 19 - 73 years. These 12 participants were asked to print and sign their names and date the form below their YES or NO answer selection. After the participant completed the experiment they were asked their age and this was notated along with gender in the lower right corner of form. They were thanked for their participation and service. In the course of two days 20 people were approached to participate but 8 declined. **This achieved the target number of 12.**
- (3) The purpose of targeting 12 participants in this field trial was to simulate a jury, where the role of the jury is that of a finder of fact. The ratio of YES to NO responses in an *analogy model* was employed to simplify a complex issue being litigated in the Middle District Court of Pennsylvania. This issue *analogous* to that in the litigation was scaled down in complexity in order for the participant to easily identify, process and analyze the issue in question.
- (4) The results are charted below.

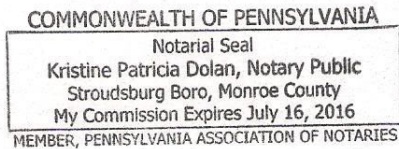


5. The results were an overwhelming 4 YES to 8 NO. These results validate Katz's claim that out



of 12 objective individuals presented with a similar issue that confronted Katz and under dispute in litigation, 8 would of reacted the exact same way. It can therefore be determined to be a "material fact." *A material fact is a fact that would be to a reasonable person germane to the decision to be made as distinguished from an insignificant, trivial or unimportant detail.*

6. The use of analogies in law, serves to compensate for some of the indeterminacy which flows from fragmented materials and the pluralism of decision-makers. That a close analogy exists usually provides a good reason for deciding the case the same way, since it renders the law more replicable than it would otherwise be, and enables lawyers to predict more accurately how a situation will be treated by the law.<sup>1</sup>
7. The attached 12 pages document the results of the 12 objective participants of this field trial. Printed on the 12 study forms is the analogy that I wrote entitled "THE FARMER'S DILEMMA: Pair of Pants." presented to each of the 12 participants on 05/11/16 to 05/12/16 between the hours of 11:45AM and 12:15 PM.



*[Signature]*

Signature

5/20/16

Date

I SWEAR UNDER PENALTY OF PERJURY THAT THE INFORMATION CONTAINED IN THIS DOCUMENT IS TRUE AND CORRECT.

STATE OF Pennsylvania COUNTY OF Monroe

On May 20, 2016, before me, Kristine Patricia Bush a notary public personally appeared, Richard Katz personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument. Witness my hand and official seal.

*Kristine Patricia Dolan*

<sup>1</sup> <http://plato.stanford.edu/entries/legal-reas-prec/>



**The Farmer's Dilemma: Pair of Pants**

A farmer relocates to a remote off-the-grid location, the area is so remote that there are *no stores, telephone, or internet service*. Upon settling into his new home the farmer furiously works to prepare his fields for harvest, one evening many months later he comes to the realization that the only pair of pants he owns has been destroyed by the hard work required to prepare his fields. He is in desperate need of a pair of pants. The farmer learns that there is only one tailor within 1000 mile radius from where he lives, luckily the tailor is only 25 miles from his farm. He goes to see the tailor the next day.

The farmer is met by the tailor, he measures the farmer's waist, inseam, takes his weight, asks information regarding the farmer's occupation, he takes an assessment of the farmer's current pants, noting location of wear marks and tears. He instructs the farmer to return in a month as he will need to make some further determinations.

After a month the farmer returns to the tailor to find that the tailor never made the pants. The farmer is only told that based on the tailor's written assessment that he provides to the farmer, the farmer does not qualify for pants. He tells the Farmer that **his decision is final.**

The perplexed farmer leaves the tailor, he returns back to his farm finds some old burlap feed sacks in his barn and a spool of yarn in his home and roughs it out in an effort to patch, repair and stabilize his current pants.

The repaired pants last approximately six months when the farmer realizes that much of the fabric of the pants has unraveled, frayed and little viable material is left on the pants to make further repairs.

He makes the determination that winter is coming and a new pair of pants are now essential.

**If you were the farmer would you return to the tailor who refused to service you?**

**YES** ☐  
**NO** ☒

**Print Name:** Mona Lisa Harrison

**Signature:** Mona Lisa Harrison

**Date:** 5/11/2016

53 y/o ♀



**The Farmer's Dilemma: Pair of Pants**

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After a month the farmer returns to the tailor to find that the tailor never made the pants. The farmer is only told that based on the tailor's written assessment that he provides to the farmer, the farmer does not qualify for pants. He tells the Farmer that **his decision is final.**

The perplexed farmer leaves the tailor, he returns back to his farm finds some old burlap feed sacks in his barn and a spool of yarn in his home and roughs it out in an effort to patch, repair and stabilize his current pants.

The repaired pants last approximately six months when the farmer realizes that much of the fabric of the pants has unraveled, frayed and little viable material is left on the pants to make further repairs.

He makes the determination that winter is coming and a new pair of pants are now essential.

**If you were the farmer would you return to the tailor who refused to service you?**

**YES** ☐

**NO** ☒

**Print Name:** Karie Gilbertsen

**Signature:** Karie Gilbertsen

**Date:** 5/11/16

53 7/0 9



**The Farmer's Dilemma: Pair of Pants**

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After a month the farmer returns to the tailor to find that the tailor never made the pants. The farmer is only told that based on the tailor's written assessment that he provides to the farmer, the farmer does not qualify for pants. He tells the Farmer that his decision is final.

The perplexed farmer leaves the tailor, he returns back to his farm finds some old burlap feed sacks in his barn and a spool of yarn in his home and roughs it out in an effort to patch, repair and stabilize his current pants.

The repaired pants last approximately six months when the farmer realizes that much of the fabric of the pants has unraveled, frayed and little viable material is left on the pants to make further repairs.

He makes the determination that winter is coming and a new pair of pants are now essential.

**If you were the farmer would you return to the tailor who refused to service you?**

**YES** ☐

**NO** ☒

**Print Name:**.....Jasmine Saady.....

**Signature:**.....J. Saady.....

**Date:**.....5/11/16.....

374109



### The Farmer's Dilemma: Pair of Pants

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The perplexed farmer leaves the tailor, he returns back to his farm finds some old burlap feed sacks in his barn and a spool of yarn in his home and roughs it out in an effort to patch, repair and stabilize his current pants.

The repaired pants last approximately six months when the farmer realizes that much of the fabric of the pants has unraveled, frayed and little viable material is left on the pants to make further repairs.

He makes the determination that winter is coming and a new pair of pants are now essential.

**If you were the farmer would you return to the tailor who refused to service you?**

**YES** ☐

**NO** ☒

**Print Name:** Lee

**Signature:** Lee

**Date:** 5/12/16

21 y/o ♀



**The Farmer's Dilemma: Pair of Pants**

A farmer relocates to a remote off-the-grid location, the area is so remote that there are *no stores, telephone, or internet service*. Upon settling into his new home the farmer furiously works to prepare his fields for harvest, one evening many months later he comes to the realization that the only pair of pants he owns has been destroyed by the hard work required to prepare his fields. He is in desperate need of a pair of pants. The farmer learns that there is only one tailor within 1000 mile radius from where he lives, luckily the tailor is only 25 miles from his farm. He goes to see the tailor the next day.

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The perplexed farmer leaves the tailor, he returns back to his farm finds some old burlap feed sacks in his barn and a spool of yarn in his home and roughs it out in an effort to patch, repair and stabilize his current pants.

The repaired pants last approximately six months when the farmer realizes that much of the fabric of the pants has unraveled, frayed and little viable material is left on the pants to make further repairs.

He makes the determination that winter is coming and a new pair of pants are now essential.

**If you were the farmer would you return to the tailor who refused to service you?**

**YES** ☐  
**NO** ☒

**Print Name:** Chevette Showers  
**Signature:** Chevette Showers  
**Date:** 5/12/14

404/09



**The Farmer's Dilemma: Pair of Pants**

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The repaired pants last approximately six months when the farmer realizes that much of the fabric of the pants has unraveled, frayed and little viable material is left on the pants to make further repairs.

He makes the determination that winter is coming and a new pair of pants are now essential.

**If you were the farmer would you return to the tailor who refused to service you?**

**YES** ☐

**NO** ☒

**Print Name:** Corinthia Saunders

**Signature:** Corinthia Saunders

**Date:** May 12



**The Farmer's Dilemma: Pair of Pants**

A farmer relocates to a remote off-the-grid location, the area is so remote that there are *no stores, telephone, or internet service*. Upon settling into his new home the farmer furiously works to prepare his fields for harvest, one evening many months later he comes to the realization that the only pair of pants he owns has been destroyed by the hard work required to prepare his fields. He is in desperate need of a pair of pants. The farmer learns that there is only one tailor within 1000 mile radius from where he lives, luckily the tailor is only 25 miles from his farm. He goes to see the tailor the next day.

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The repaired pants last approximately six months when the farmer realizes that much of the fabric of the pants has unraveled, frayed and little viable material is left on the pants to make further repairs.

He makes the determination that winter is coming and a new pair of pants are now essential.

**If you were the farmer would you return to the tailor who refused to service you?**

**YES** ☐  
**NO** ☒

**Print Name:** Patty

**Signature:** [Signature]

**Date:** 5/11/16



**The Farmer's Dilemma: Pair of Pants**

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He makes the determination that winter is coming and a new pair of pants are now essential.

**If you were the farmer would you return to the tailor who refused to service you?**

**YES** ☐

**NO** ☒

**Print Name:** Guempe J. Charby

**Signature:** [Signature]

**Date:** 5/11/16

55 y/o ♂



**The Farmer's Dilemma: Pair of Pants**

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He makes the determination that winter is coming and a new pair of pants are now essential.

**If you were the farmer would you return to the tailor who refused to service you?**

**YES** ☒  
**NO** ☐

**Print Name:**.....RON KASEM.....  
**Signature:**.....Ron KaseM.....  
**Date:**.....5-11-16.....



**The Farmer's Dilemma: Pair of Pants**

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He makes the determination that winter is coming and a new pair of pants are now essential.

**If you were the farmer would you return to the tailor who refused to service you?**

**YES** ☒  
**NO** ☐

**Print Name:** ..... Melannie Vegas .....  
**Signature:** ..... *Melannie Vegas* .....  
**Date:** ..... 5/11/2016 .....

25 yds ♀



**The Farmer's Dilemma: Pair of Pants**

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**If you were the farmer would you return to the tailor who refused to service you?**

**YES** ☒  
**NO** ☐

**Print Name:** Ed Coleman

**Signature:** [Signature]

**Date:** 5.12.16

587108



**The Farmer's Dilemma: Pair of Pants**

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**If you were the farmer would you return to the tailor who refused to service you?**

**YES** ☒  
**NO** ☐

**Print Name:** Jason Sullivan

**Signature:** Jason Sullivan

**Date:** 5/11/16

35 4/6 ♂